

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.S-1599 of 2017

Before: Mr. Justice Muhammad Shafi Siddiqui

Muhammad Asif ----- Petitioner
Versus
Mst. Nasreen Bano & others ----- Respondents

Dates of Hearing: 24.05.2018,

Petitioner: Through Mr. Babar Ali Shaikh Advocate
Respondent No.1: Through Syed Amir Shah, Advocate
Respondents No. 2 to4: Through Naheed Akhtar, State Counsel

J U D G M E N T

Muhammad Shafi Siddiqui, J: This petition is filed against the concurrent findings of two Courts below.

Brief facts of the case are that the Rent Case No.554/2016 was filed by respondent Mst. Nasreen Bano through her attorney Qadir Gul on 16.5.2016. Since the petitioner, after service of notices, had not filed written statement in respect of the rent case, he filed an application through his Counsel on 08.10.2016 for extension of time to file written statement which was dismissed on the ground that he was already debarred from filing written statement on 29.8.2016. The case was then transferred to the Court of IVth Rent Controller Karachi (South) and again an application under section 151 CPC was filed with the same request, which was dismissed on 24.1.2017.

The evidence of the respondent's attorney has gone unrebutted and unshaken. The Rent Controller observed that the tenancy was regulated by virtue of "Goodwill Agreement" dated 05.10.2012 which was annexed with the ejectment application. The rent agreement was found not within the spirit and frame of Sindh Rented Premises Ordinance, 1979. The goodwill of Rs.400,000/- was admitted in terms of the order of the Rent Controller. The eviction application was filed on the ground of default and personal requirement. In the eviction application the respondent pleaded default w.e.f September, 2013 and also prayed for bona fide need that she wanted to establish her own business of 'Beauty Parlor' at the rented shop. This plea of respondent has gone unchallenged and unrebutted as observed by the Rent Controller and the appellate Court. The petitioner's Counsel has argued that since it was a case of pugri/goodwill, as admitted, it does not come within the frame of SRPO, 1979 and insofar as the personal requirement is concerned, the landlady has not produced any certificate to support that she is capable of running a 'Beauty Parlor'.

I have heard the learned Counsels and perused the material available on record.

At the very outset there is nothing in defence as neither written statement was filed nor evidence was lead. Be that as it may, perusal of the terms of agreement disclosed the status of the petitioner as of a tenant and amount of Rs.400,000/- as pugri was claimed to have been paid.

Similarly insofar as the case of personal requirement is concerned, there is nothing to challenge the personal bona fide need of the landlord. The defence that has now taken, at this stage, is that the premises are never owned by the respondent as it is the land of KMC and the respondent has no title. Even this defence as of now, is not available to the petitioner since the definition of landlord included the respondent

who was receiving rent on the basis of rent agreement at the relevant time, which is named as “Goodwill Agreement”. The only relationship that could be said to be in existence in pursuance of such agreement is of a ‘landlady’ and ‘tenant’. In case the petitioner intends to challenge the title of the respondent, he could have handed-over the possession of the premises to the landlady first and then may challenge the title of the landlady if permissible under the law. If at all any amount illegally claimed to have been retained by the landlady to washout the default committed by the petitioner w.e.f September, 2013, there is nothing in defence as far as personal requirement is concerned. It is nowhere pleaded in pleadings that such default to be adjusted from the amount of goodwill lying with the landlady hence no interference is required against the concurrent findings of two Courts below and by a short order this petition was dismissed on 24.5.2018 and these are the reasons.

Dated:____.06.2018

Judge